

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

William J. Hester,	)	
	)	
Plaintiff,	)	Civil Action No. 5:15-2479-RMG
	)	
vs.	)	
	)	
Carolyn W. Colvin, Acting Commissioner	)	<b>ORDER</b>
of Social Security,	)	
	)	
Defendant.	)	
	)	
	)	
	)	

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This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation on June 29, 2016, recommending that the decision of the Commissioner be reversed and remanded because of the Administrative Law Judge's ("ALJ") clear failure to comply with this Court's earlier remand order directing compliance with the provisions of the Treating Physician Rule. (Dkt. No. 21). This included the direction to "fully discuss all aspects of the opinions of Dr. Shealy and Dr. Kaylie, and discuss the weight attributed to each based on the factors set forth in 20 C.F.R. § 404.1527." Tr. 521. A review of the ALJ's decision of November 18, 2014 demonstrates a clear disregard of the order of this Court. Tr. 410–22. The Commissioner has now filed a notice she does not intend to file objections to the Report and Recommendation. (Dkt. No. 23).

The Court has reviewed the Report and Recommendation and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation (Dkt. No. 17) as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. In light of the facts that this application for disability benefits has been pending since March 15, 2010, a period exceeding six years, and that the processing of this matter since remand has itself taken over two and one half years, the Commissioner is hereby directed to schedule the processing of this matter on this remand as follows: (1) the administrative hearing before the Administrative Law Judge shall be conducted within 60 days of this Order; (2) the decision of the Administrative Law Judge shall be issued within 30 days following the administrative hearing; and (3) review by the Appeals Council, if necessary, shall be completed and a final agency decision made within 30 days after Plaintiff's request for Appeals Council review. Any further failure to comply with the orders of this Court shall result in a hearing regarding appropriate sanctions.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. M. Gergel', is written over a horizontal line.

Richard Mark Gergel  
United States District Judge

Charleston, South Carolina  
July 20, 2016